FORCE

City and County of San Francisco v. Sheehan, --- U.S. --- (2015)
Decided May 18, 2015

FACTS: In August, 2008, Sheehan was a resident in a group home for individuals with mental illness. She had a private room, but shared the common areas with the other residents. On August 7, Hodge, a social worker, went to conduct a welfare check, having become concerned that "Sheehan had stopped taking her medication, no longer spoke with her psychiatrist, and reportedly was no longer changing her clothes or eating." He knocked, but she did not answer. He entered with a key and found her lying on the bed. She did not respond, at first, but then jumped up and ordered him from the room, threatening that she had a knife and would kill him. He left, although he did not see a knife, and she slammed the door. Hodge cleared the building of the other residents and did an application for a temporary evaluation and treatment. He indicated she "was a 'threat to others' and 'gravely disabled,' but he did not mark that she was a danger to herself. He then called the police for assistance.

Officer Holder responded. She reviewed the application and talked to Hodge. Sgt. Reynolds, a more experienced officer, was summoned and "brought up to speed." A hospital was forewarned of the pending transport. The officers, with Hodge, went to the room and knocked. The officers used Hodge's key to enter. Sheehan "reacted violently," grabbing a kitchen knife with a 5-inch blade and approached the officers, "yelling something along the lines of "I am going to kill you. I don't need help. Get out." The officers retreated into the hallway and called for backup.

With Sheehan back behind a closed door, they officers were concerned that she "might gather more weapons" – Reynold had glimpsed other knives in the room – or that she might flee out the second floor window. (They were unsure if the window was equipped with an escape ladder.)

> Reynolds and Holder had to make a decision. They could wait for backup—indeed, they already heard sirens. Or they could quickly reenter the room and try to subdue Sheehan before more time elapsed. Because Reynolds believed that the situation "required [their] immediate attention," the officers chose reentry. In making that decision, they did not pause to consider whether Sheehan's disability should be accommodated. The officers obviously knew that Sheehan was unwell, but in Reynolds' words, that was "a secondary issue" given that they were "faced with a violent woman who had already threatened to kill her social worker" and "two uniformed police officers."

Ultimately they decided that Holder would push the door open while Reynold sprayed Sheehan with OC. They also had weapons drawn. As they entered she again yelled at them to leave and may have again threatened them. When sprayed, she would not drop the knife, and from a few feet away, Holder and Reynold both shot her. When she fell, a third officer, who had just arrived, "kicked the knife out of her hand."

Sheehan survived. She was tried for the assaults and threats but ultimately, the jury was unable to reach a verdict and it was decided not to retry her. She then brought suit, arguing that San Francisco violated the Americans with Disabilities Act (ADA), "by subduing her in a manner that did not reasonably accommodate her disability." She also sued the officers under 42 U.S.C. §1983 for violating her Fourth Amendment rights.

The District Court ruled for the city and the officers, stating "that officers making an arrest are not required 'to first determine whether their actions would comply with the ADA before protecting themselves and others.'" It also ruled for the officers under the Fourth Amendment as well.

Upon appeal, the Ninth Circuit vacated the portion of the decision relating to the ADA, concluding that it was up to a jury to decide whether San Francisco could have accommodated Sheehan's disability by using a different process, to defuse the situation. It further held that while entering the room was lawful, they "'provoked' Sheehan by needlessly forcing that second confrontation." The Ninth circuit ruled that "it was clearly established that an officer cannot 'forcibly enter the home of an armed, mentally ill subject who had been acting irrationally and had threatened anyone who entered when there was no objective need for immediate entry.'"

Both San Francisco and the officers petitioned for certiorari and the U.S. Supreme Court granted review.

ISSUE: Is it clearly established that officers must take a subject's disability into consideration while making a deadly force decision?

HOLDING: No

DISCUSSION: The Court began by noting that "Title II of the ADA commands that 'no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.'"[1]

Although the Court understood that San Francisco's argument was posed on the question as to whether the ADA "requires law enforcement officers to provide accommodations to an armed, violent, and mentally ill suspect in the course of bringing the suspect into custody," in its argument before the Court, San Francisco went in a different direction, arguing that ""a person who poses a direct threat or significant risk to the safety of others is not qualified for accommodations under the ADA," By its change in direction, San Francisco "effectively concedes that the relevant provision of the ADA, 42 U. S. C. §12132, may 'requir[e] law enforcement officers to provide accommodations to an armed, violent, and mentally ill suspect in the course of bringing the suspect into custody." Because of that, the Court chose not to decide the question in this case, since there was no opportunity to have a true argument and dismissed the first question.

[1] 42 U.S.C. §12132.

The second question related to whether the two officers could be held personally liable for Sheehan's injuries. The Court noted that "public officials are immune from suit under 42 U. S. C. §1983 unless they have 'violated a statutory or constitutional right that was clearly established at the time of the challenged conduct."[2] The Court agreed that "an officer 'cannot be said to have violated a clearly established right unless the right's contours were sufficiently definite that any reasonable official in [his] shoes would have understood that he was violating it,' meaning that 'existing precedent . . . placed the statutory or constitutional question beyond debate.'"[3]

The Court reviewed the facts, and noted that:

> …there is no doubt that the officers did not violate any federal right when they opened Sheehan's door the first time. Reynolds and Holder knocked on the door, announced that they were police officers, and informed Sheehan that they wanted to help her. When Sheehan did not come to the door, they entered her room. This was not unconstitutional. '[L]aw enforcement officers may enter a home without a warrant to render emergency assistance to an injured occupant or to protect an occupant from imminent injury."[4]

Since the second entry was "part of a single, continuous search or seizure, the officers [were] not required to justify the continuing emergency with respect to the second entry.[5] They knew Sheehan had a weapon, was making threats and "that delay could make the situation more dangerous." Even if in hindsight, mistakes were made, that does not negate the legality of their actions[6] given that "police officers are often forced to make split-second judgments."[7]

Once the door was open, the use of force was reasonable, with officers attempting OC spray first, and only resorted to deadly force when she came at them with a knife. "Nothing in the Fourth Amendment barred Reynolds and Holder from protecting themselves, even though it meant firing multiple rounds."

The Court focused in on the question as to "whether, despite these dangerous circumstances, the officers violated the Fourth Amendment when they decided to reopen Sheehan's door rather than attempting to accommodate her disability." But because the attorneys representing the officers barely briefed that question, the Court limited its decision to "whether the officers' failure to accommodate Sheehan's illness violated clearly established law. It did not. The Court noted that although Graham v. Connor[8] is the touchstone case, the facts were dramatically different. Lower federal court cases, depending upon by the Ninth Circuit also, did not bear much resemblance factually, although they involved mentally ill subjects. The Court noted that no matter "how carefully a reasonable officer read" the cited cases, "that officer could not know that reopening

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[2] Plumhoff v. Rickard, 572 U. S. --- (2014)
[3] Ashcroft v. al-Kidd, 563 U. S. --- (2011)
[4] Brigham City v. Stuart, 547 U. S. 398 (2006). See also Kentucky v. King, 563 U. S. --- (2011) .
[5] Michigan v. Tyler, 436 U. S. 499 (1978)).
[6] Heien v. North Carolina, 574 U. S. --- (2014)
[7] Plumhoff, supra.
[8] 490 U.S. 386 (1989).

Sheehan's door to prevent her from escaping or gathering more weapons would violate the Ninth Circuit's test, even if all the disputed facts are viewed in respondent's favor." The Court agreed that "Without that 'fair notice,' an officer is entitled to qualified immunity." Even though arguably, the officers may have ignored certain procedures and training, with the court noted that "given the generality of that training, it is not at all clear that Reynolds and Holder did so," an expert's report to that end was not be given a great deal of weight. It was certainly not determinative.

The Court noted that the officers were entitled to qualified immunity. The case was remanded back for consideration of the first question, however.

FULL TEXT OF OPINION: http://www.supremecourt.gov/opinions/14pdf/13-1412_0pl1.pdf